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*[Pro Hac Vice applications pending]*

Attorneys for Plaintiff and the Proposed Class

## UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

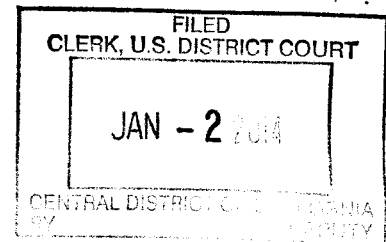
PHYSICIANS HEALTHSOURCE,  
INC., an Ohio corporation, individually  
and as the representative of a class of  
similarly-situated persons,

Plaintiff,

vs.

MASIMO CORPORATION WHICH  
WILL DO BUSINESS IN  
CALIFORNIA AS DELAWARE  
MASIMO CORPORATION,  
MASIMO AMERICAS, INC. and  
JOHN DOES 1-10,

Defendants.



Case No.: 8:14-cv-01 JVS-ANx

**CLASS ACTION COMPLAINT**

**DEMAND FOR JURY TRIAL**

1 Plaintiff, PHYSICIANS HEALTHSOURCE, INC. ("Plaintiff") brings this  
 2 action on behalf of itself and all others similarly situated, through its attorneys, and  
 3 except as to those allegations pertaining to Plaintiff or its attorneys, which  
 4 allegations are based upon personal knowledge, alleges the following upon  
 5 information and belief against Defendants, MASIMO CORPORATION WHICH  
 6 WILL DO BUSINESS IN CALIFORNIA AS DELAWARE MASIMO  
 7 CORPORATION, MASIMO AMERICAS, INC. and JOHN DOES 1-10  
 8 ("Defendants").

### 10 PRELIMINARY STATEMENT

11 1. This case challenges Defendants' practice of sending unsolicited  
 12 facsimiles.

13 2. The federal Telephone Consumer Protection Act of 1991, as amended  
 14 by the Junk Fax Prevention Act of 2005, 47 USC § 227 ("JFPA" or the "Act"), and  
 15 the regulations promulgated under the Act, prohibits a person or entity from faxing  
 16 or having an agent fax advertisements without the recipient's prior express  
 17 invitation or permission. The JFPA provides a private right of action and provides  
 18 statutory damages of \$500 per violation. Upon information and belief, Defendants  
 19 have sent facsimile transmissions of unsolicited advertisements to Plaintiff and the  
 20 Class in violation of the JFPA, including, but not limited to, the facsimile  
 21 transmission of unsolicited advertisements on or about April 10, 2012 and October  
 22 12, 2011 ("the Faxes"), true and correct copies of which are attached hereto as  
 23 Exhibit A and made a part hereof. The Faxes promote the services and goods of  
 24 Defendants. Plaintiff is informed and believes, and upon such information and  
 25 belief avers, that Defendants have sent, and continue to send, unsolicited  
 26 advertisements via facsimile transmission in violation of the JFPA.

27 3. Unsolicited faxes damage their recipients. A junk fax recipient loses  
 28 the use of its fax machine, paper, and ink toner. An unsolicited fax wastes the

1 recipient's valuable time that would have been spent on something else. A junk fax  
 2 interrupts the recipient's privacy. Unsolicited faxes prevent fax machines from  
 3 receiving authorized faxes, prevent their use for authorized outgoing faxes, cause  
 4 undue wear and tear on the recipients' fax machines, and require additional labor to  
 5 attempt to discern the source and purpose of the unsolicited message.

6 4. On behalf of itself and all others similarly situated, Plaintiff brings this  
 7 case as a class action asserting claims against Defendants under the JFPA.

8 5. Plaintiff is informed and believes, and upon such information and  
 9 belief avers, that this action is based upon a common nucleus of operative fact  
 10 because the facsimile transmissions at issue were and are being done in the same or  
 11 similar manner. This action is based on the same legal theory, namely liability  
 12 under the JFPA. This action seeks relief expressly authorized by the JFPA: (i)  
 13 injunctive relief enjoining Defendants, their employees, agents, representatives,  
 14 contractors, affiliates, and all persons and entities acting in concert with them, from  
 15 sending unsolicited advertisements in violation of the JFPA; and (ii) an award of  
 16 statutory damages in the minimum amount of \$500 for each violation of the JFPA,  
 17 and to have such damages trebled, as provided by § 227(b)(3) of the Act.

## 18 **JURISDICTION AND VENUE**

19  
 20 6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and  
 21 47 U.S.C. § 227.

22 7. Venue is proper in this District because Defendants committed a  
 23 statutory tort within this district a significant portion of the events took place within  
 24 this District.

## 25 **PARTIES**

26  
 27 8. Plaintiff, PHYSICIANS HEALTHSOURCE, INC., is an Ohio  
 28 corporation with its principal place of business located in Ohio.



1 receive the urgent communications their owners desire to receive.

2 18. Defendants' facsimiles did not display a proper opt-out notice as  
3 required by 47 C.F.R. 64.1200.

4  
5 **CLASS ACTION ALLEGATIONS**

6 19. In accordance with F. R. Civ. P. 23(b)(1), (b)(2) and (b)(3), Plaintiff  
7 brings this class action pursuant to the JFPA, on behalf of the following class of  
8 persons:

9 All persons who (1) on or after four years prior to the  
10 filing of this action, (2) were sent telephone facsimile  
11 messages of material advertising the commercial  
12 availability of any property, goods, or services by or on  
13 behalf of Defendants, and (3) which did not display a  
14 proper opt-out notice.

15 Excluded from the Class are the Defendants, their employees, agents and members  
16 of the Judiciary. Plaintiff reserves the right to amend the class definition upon  
17 completion of class certification discovery.

18 20. Class Size (F. R. Civ. P. 23(a)(1)): Plaintiff is informed and believes,  
19 and upon such information and belief avers, that the number of persons and entities  
20 of the Plaintiff Class is numerous and joinder of all members is impracticable.  
21 Plaintiff is informed and believes, and upon such information and belief avers, that  
22 the number of class members is at least forty.

23 21. Commonality (F. R. Civ. P. 23 (a) (2)): Common questions of law  
24 and fact apply to the claims of all class members. Common material questions of  
25 fact and law include, but are not limited to, the following:

- 26 a) Whether the Defendants sent unsolicited fax advertisements;  
27 b) Whether the Defendants' faxes advertised the commercial  
28

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1 availability of property, goods, or services;

2 c) The manner and method the Defendants used to compile or  
3 obtain the list of fax numbers to which they sent Exhibit "A" and other  
4 unsolicited faxed advertisements;

5 d) Whether the Defendants faxed advertisements without first  
6 obtaining the recipient's prior permission or invitation;

7 e) Whether the Defendants sent the faxed advertisements  
8 knowingly, willfully or intentionally since the Purdue Defendants were a  
9 party to another TCPA suit where their fax advertising practices were at  
10 issue;

11 f) Whether the Defendants violated the provisions of 47 U.S.C. §  
12 227 and the regulations promulgated thereunder;

13 g) Whether the faxes contain an "opt-out notice" that complies  
14 with the requirements of § (b)(1)(C)(iii) of the Act, and the regulations  
15 promulgated thereunder, and the effect of the failure to comply with such  
16 requirements;

17 h) Whether the Defendants should be enjoined from faxing  
18 advertisements in the future;

19 i) Whether the Plaintiff and the other members of the class are  
20 entitled to statutory damages; and

21 j) Whether the Court should award treble damages, especially  
22 since the Purdue Defendants were on notice from a prior suit that their fax  
23 advertising activities were unlawful.

24 22. Typicality (F. R. Civ. P. 23 (a) (3)): The Plaintiff's claims are typical  
25 of the claims of all class members. The Plaintiff received the same fax(es) as the  
26 fax(es) sent by or on behalf of the Defendants advertising goods and services of the  
27 Defendants during the Class Period. The Plaintiff is making the same claims and  
28 seeking the same relief for itself and all class members based upon the same federal

1 statute. The Defendants have acted the same or in a similar manner with respect to  
 2 the Plaintiff and all the class members by sending Plaintiff and each member of the  
 3 class the same fax(es).

4 23. Fair and Adequate Representation (F. R. Civ. P. 23 (a) (4)): The  
 5 Plaintiff will fairly and adequately represent and protect the interests of the class. It  
 6 is interested in this matter, has no conflicts and has retained experienced class  
 7 counsel to represent the class.

8 24. Need for Consistent Standards and Practical Effect of Adjudication (F.  
 9 R. Civ. P. 23 (b) (1)): Class certification is appropriate because the prosecution of  
 10 individual actions by class members would: (a) create the risk of inconsistent  
 11 adjudications that could establish incompatible standards of conduct for the  
 12 Defendants, and/or (b) as a practical matter, adjudication of the Plaintiff's claims  
 13 will be dispositive of the interests of class members who are not parties.

14 25. Common Conduct (F. R. Civ. P. 23 (b) (2)): Class certification is also  
 15 appropriate because the Defendants have acted and refused to act in the same or  
 16 similar manner with respect to all class members thereby making injunctive and  
 17 declaratory relief appropriate. The Plaintiff demands such relief as authorized by 47  
 18 U.S.C. §227.

19 26. Predominance and Superiority (F. R. Civ. P. 23 (b) (3)): Common  
 20 questions of law and fact predominate over any questions affecting only individual  
 21 members, and a class action is superior to other methods for the fair and efficient  
 22 adjudication of the controversy because:

- 23 a) Proof of the claims of the Plaintiff will also prove the claims of the
- 24 class without the need for separate or individualized proceedings;
- 25 b) Evidence regarding defenses or any exceptions to liability that the
- 26 Defendants may assert and prove will come from the Defendants' records
- 27 and will not require individualized or separate inquiries or proceedings;
- 28 c) The Defendants have acted and are continuing to act pursuant to



1 common policies or practices in the same or similar manner with respect to  
2 all class members;

3 d) The amount likely to be recovered by individual class members does  
4 not support individual litigation. A class action will permit a large number  
5 of relatively small claims involving virtually identical facts and legal issues  
6 to be resolved efficiently in one (1) proceeding based upon common proofs;  
7 and

8 e) This case is inherently manageable as a class action in that:

9 (i) The Defendants identified persons or entities to receive the fax  
10 transmissions and it is believed that the Defendants' computer and business  
11 records will enable the Plaintiff to readily identify class members and  
12 establish liability and damages;

13 (ii) Liability and damages can be established for the Plaintiff and  
14 the class with the same common proofs;

15 (iii) Statutory damages are provided for in the statute and are the  
16 same for all class members and can be calculated in the same or a similar  
17 manner;

18 (iv) A class action will result in an orderly and expeditious  
19 administration of claims and it will foster economics of time, effort and  
20 expense;

21 (v) A class action will contribute to uniformity of decisions  
22 concerning the Defendants' practices; and

23 (vi) As a practical matter, the claims of the class are likely to go  
24 unaddressed absent class certification.

25  
26 **Claim for Relief for Violation of the JFPA, 47 U.S.C. § 227 *et seq.***

27 27. The JFPA makes it unlawful for any person to "use any telephone  
28 facsimile machine, computer or other device to send, to a telephone facsimile



1 machine, an unsolicited advertisement ..." 47 U.S.C. § 227(b)(1)(C).

2 28. The JFPA defines "unsolicited advertisement" as "any material  
3 advertising the commercial availability or quality of any property, goods, or  
4 services which is transmitted to any person without that person's prior express  
5 invitation or permission, in writing or otherwise." 47 U.S.C. § 227 (a) (5).

6 29. **Opt-Out Notice Requirements.** The JFPA strengthened the  
7 prohibitions against the sending of unsolicited advertisements by requiring, in  
8 §(b)(1)(C)(iii) of the Act, that senders of faxed advertisements place a clear and  
9 conspicuous notice on the first page of the transmission that contains the following  
10 among other things (hereinafter collectively the "Opt-Out Notice Requirements"):

11 1. a statement that the recipient is legally entitled to opt-out of  
12 receiving future faxed advertisements – knowing that he or she has the  
13 legal right to request an opt-out gives impetus for recipients to make  
14 such a request, if desired;

15 2. a statement that the sender must honor a recipient's opt-out  
16 request within 30 days and the sender's failure to do so is unlawful –  
17 thereby encouraging recipients to opt-out, if they did not want future  
18 faxes, by advising them that their opt-out requests will have legal  
19 "teeth";

20 3. a statement advising the recipient that he or she may opt-out  
21 with respect to all of his or her facsimile telephone numbers and not  
22 just the ones that receive a faxed advertisement from the sender –  
23 thereby instructing a recipient on how to make a valid opt-out request  
24 for all of his or her fax machines;

25 The requirement of (1) above is incorporated from § (b)(D)(ii) of the Act.  
26 The requirement of (2) above is incorporated from § (b)(D)(ii) of the Act and the  
27 rules and regulations of the Federal Communications Commission (the "FCC") in  
28 ¶31 of its 2006 Report and Order (*In the Matter of Rules and Regulations*

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1 *Implementing the Telephone Consumer Protection Act, Junk Prevention Act of*  
 2 *2005*, 21 F.C.C.R. 3787, 2006 WL 901720, which rules and regulations took effect  
 3 on August 1, 2006). The requirements of (3) above are contained in § (b)(2)(E) of  
 4 the Act and incorporated into the Opt-Out Notice Requirements via § (b)(2)(D)(ii).  
 5 Compliance with the Opt-Out Notice Requirements is neither difficult nor costly.  
 6 The Opt-Out Notice Requirements are important consumer protections bestowed by  
 7 Congress upon the owners of the telephone lines and fax machines giving them the  
 8 right, and means, to stop unwanted faxed advertisements.

9       **30. 2006 FCC Report and Order.** The JFPA, in § (b)(2) of the Act,  
 10 directed the FCC to implement regulations regarding the JFPA, including the  
 11 JFPA's Opt-Out Notice Requirements and the FCC did so in its 2006 Report and  
 12 Order, which in addition provides among other things:

13           A. The definition of, and the requirements for, an established  
 14 business relationship for purposes of the first of the three prongs of an exemption to  
 15 liability under § (b)(1)(C)(i) of the Act and provides that the lack of an "established  
 16 business relationship" precludes the ability to invoke the exemption contained in §  
 17 (b)(1)(C) of the Act (*See* 2006 Report and Order ¶¶8-12 and 17-20);

18           B. The required means by which a recipient's facsimile telephone  
 19 number must be obtained for purposes of the second of the three prongs of the  
 20 exemption under § (b)(1)(C)(ii) of the Act and provides that the failure to comply  
 21 with these requirements precludes the ability to invoke the exemption contained in  
 22 § (b)(1)(C) of the Act (*See* 2006 Report and Order ¶¶13-16);

23           C. The things that must be done in order to comply with the Opt-  
 24 Out Notice Requirements for the purposes of the third of the three prongs of the  
 25 exemption under § (b)(1)(C)(iii) of the Act and provides that the failure to comply  
 26 with these requirements precludes the ability to invoke the exemption contained in  
 27 § (b)(1)(C) of the Act (*See* 2006 Report and Order ¶¶24-34);

28           D. The failure of a sender to comply with the Opt-Out Notice

1 Requirements precludes the sender from claiming that a recipient gave “prior  
2 express permission or invitation” to receive the sender’s fax (*See* Report and Order  
3 ¶48);

4 As a result thereof, a sender of a faxed advertisement who fails to comply  
5 with the Opt-Out Notice Requirements has, by definition, transmitted an unsolicited  
6 advertisement under the JFPA. This is because such a sender can neither claim that  
7 the recipients of the faxed advertisement gave “prior express permission or  
8 invitation” to receive the fax nor can the sender claim the exemption from liability  
9 contained in § (b)(C)(1) of the Act.

10 31. **The Faxes.** Defendants sent on or about April 10, 2012 and October  
11 2, 2011, advertisements via facsimile transmission from telephone facsimile  
12 machines, computers, or other devices to the telephone lines and facsimile  
13 machines of Plaintiff and members of the Plaintiff Class. The Faxes constituted  
14 advertisements under the Act. Defendants failed to comply with the Opt-Out  
15 Requirements in connection with the Faxes. The Faxes were transmitted to persons  
16 or entities without their prior express permission or invitation and/or Defendants  
17 are precluded from asserting any prior express permission or invitation because of  
18 the failure to comply with the Opt-Out Notice Requirements. By virtue thereof,  
19 Defendants violated the JFPA and the regulations promulgated thereunder by  
20 sending the Faxes via facsimile transmission to Plaintiff and members of the Class.

21 32. **Defendant’s Other Violations.** Plaintiff is informed and believes,  
22 and upon such information and belief avers, that during the period preceding four  
23 years of the filing of this Complaint and repeatedly thereafter, Defendants have sent  
24 via facsimile transmission from telephone facsimile machines, computers, or other  
25 devices to telephone facsimile machines of members of the Plaintiff Class faxes  
26 that constitute advertisements under the JFPA that were transmitted to persons or  
27 entities without their prior express permission or invitation (and/or that Defendants  
28 are precluded from asserting any prior express permission or invitation because of

1 the failure to comply with the Opt-Out Notice Requirements in connection with  
2 such transmissions). By virtue thereof, Defendants violated the JFPA and the  
3 regulations promulgated thereunder. Plaintiff is informed and believes, and upon  
4 such information and belief avers, that Defendants are continuing to send  
5 unsolicited advertisements via facsimile transmission in violation of the JFPA and  
6 the regulations promulgated thereunder, and absent intervention by this Court, will  
7 do so in the future.

8 33. The TCPA/JFPA provides a private right of action to bring this action  
9 on behalf of Plaintiff and the Plaintiff Class to redress Defendants' violations of the  
10 Act, and provides for statutory damages. 47 U.S.C. § 227(b)(3). The Act also  
11 provides that injunctive relief is appropriate. *Id.*

12 34. The JFPA is a strict liability statute, so the Defendants are liable to the  
13 Plaintiff and the other class members even if their actions were only negligent.

14 35. The Defendants knew or should have known that (a) the Plaintiff and  
15 the other class members had not given express invitation or permission for the  
16 Defendants or anybody else to fax advertisements about the Defendants' goods or  
17 services; (b) the Plaintiff and the other class members did not have an established  
18 business relationship; (c) Defendants transmitted an advertisement; (d) the Fax did  
19 not contain the required Opt-Out Notice; and (e) Defendants' transmission of  
20 advertisements which did not contain the required Opt-Out Notice was unlawful.

21 36. The Defendants' actions caused damages to the Plaintiff and the other  
22 class members. Receiving the Defendants' junk faxes caused the recipients to lose  
23 paper and toner consumed in the printing of the Defendants' faxes. Moreover, the  
24 Defendants' faxes used the Plaintiff's and each class member's telephone lines and  
25 fax machine. The Defendants' faxes cost the Plaintiff and each class member time,  
26 as the Plaintiff and its employees, as well as each class member and their  
27 employees, wasted their time receiving, reviewing and routing the Defendants'  
28 unauthorized faxes. That time otherwise would have been spent on the Plaintiff's

1 and each of the class member's business activities. The Defendants' faxes  
 2 unlawfully interrupted the Plaintiff's and other class members' privacy interests in  
 3 being left alone. Finally, the injury and property damage sustained by Plaintiff and  
 4 the other class members from the sending of Defendants' advertisements occurred  
 5 outside of Defendants' premises.

6 WHEREFORE, Plaintiff, PHYSICIANS HEALTHSOURCE, INC.,  
 7 individually and on behalf of all others similarly situated, demands judgment in its  
 8 favor and against Defendants, MASIMO CORPORATION WHICH WILL DO  
 9 BUSINESS IN CALIFORNIA AS DELAWARE MASIMO CORPORATION,  
 10 MASIMO AMERICAS, INC. and JOHN DOES 1-10, jointly and severally, as  
 11 follows:

12 A. That the Court adjudge and decree that the present case may be  
 13 properly maintained as a class action, appoint the Plaintiff as the representative of  
 14 the class and appoint the Plaintiff's counsel as counsel for the class;

15 B. That the Court award actual monetary loss from such violations or the  
 16 sum of five hundred dollars (\$500.00) for each violation, trebled due to Defendants'  
 17 knowing violation, whichever is greater;

18 C. That Court enjoin the Defendants from additional violations; and

19 D. That the Court award pre-judgment interest, costs and such further  
 20 relief as the Court may deem just and proper.

21 DATED: December 30, 2013

GERAGOS & GERAGOS APC

22  
 23  
 24 By

  
 25 MARK GERAGOS  
 26 Attorneys for Plaintiff  
 27 PHYSICIANS HEALTHSOURCE, INC.  
 28

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**DEMAND FOR JURY TRIAL**

Plaintiff PHYSICIANS HEALTHSOURCE, INC. hereby demands a jury trial.

DATED: December 30, 2013

GERAGOS & GERAGOS APC

By

  
MARK GERAGOS  
Attorneys for Plaintiff  
PHYSICIANS/HEALTHSOURCE, INC.

GERAGOS & GERAGOS, APC  
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**EXHIBIT A**



4/10/2012 11:09 (908)787-0805

1/1

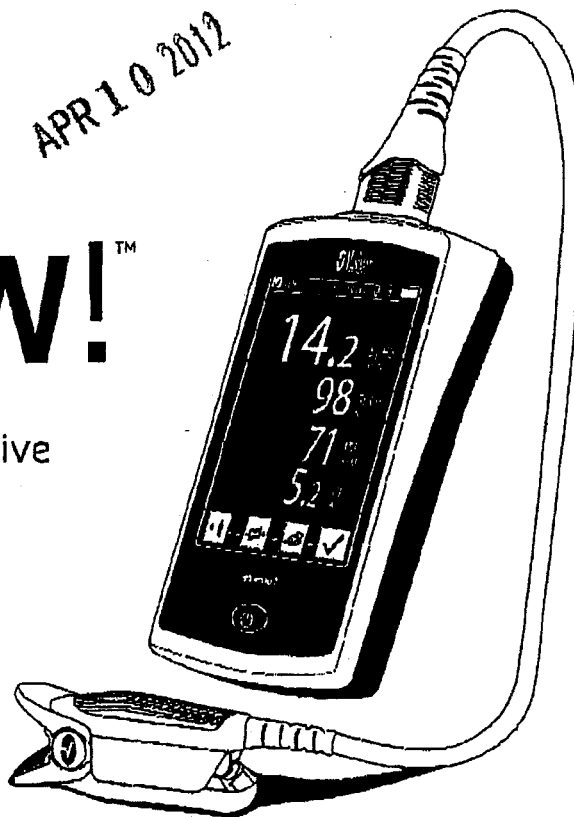
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Practice Name \_\_\_\_\_

Alternate Contact \_\_\_\_\_

Specialty \_\_\_\_\_

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City Cincinnati State OH Zip 45248-5133

Daytime Phone \_\_\_\_\_

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge James V. Selna and the assigned Magistrate Judge is Arthur Nakazato.

The case number on all documents filed with the Court should read as follows:

8:14-cv-00001 JVS-ANx

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

January 2, 2014

Date

By SBOURGEOIS  
Deputy Clerk

---

---

NOTICE TO COUNSEL

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

**Subsequent documents must be filed at the following location:**

☐ Western Division  
312 N. Spring Street, G-8  
Los Angeles, CA 90012

☒ Southern Division  
411 West Fourth St., Ste 1053  
Santa Ana, CA 92701

☐ Eastern Division  
3470 Twelfth Street, Room 134  
Riverside, CA 92501

**Failure to file at the proper location will result in your documents being returned to you.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

COPY

**I. (a) PLAINTIFFS** ( Check box if you are representing yourself ☐ )

PHYSICIANS HEALTHSOURCE, INC., an Ohio corporation, individually and as the representative of a class of similarly-situated persons,

**DEFENDANTS** ( Check box if you are representing yourself ☐ )

MASIMO CORPORATION WHICH WILL DO BUSINESS IN CALIFORNIA AS DELAWARE MASIMO CORPORATION, MASIMO AMERICAS, INC., and JOHN DOES 1-10

(b) County of Residence of First Listed Plaintiff Foreign

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Orange

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Mark Geragos 108325  
GERAGOS & GERAGOS, APC, 644 South Figueroa Street, Los Angeles, CA 90017  
Telephone: (213) 625-3900 / Fax: (213) 625-1600

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☐ 4. Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES**-For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant)

- |                                         |                                |                                |                                                               |                                       |                                           |
|-----------------------------------------|--------------------------------|--------------------------------|---------------------------------------------------------------|---------------------------------------|-------------------------------------------|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | PTF <input type="checkbox"/> 4        | DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2     | <input type="checkbox"/> 2     | Incorporated and Principal Place of Business in Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5                |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3     | <input type="checkbox"/> 3     | Foreign Nation                                                | <input type="checkbox"/> 6            | <input type="checkbox"/> 6                |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

47 U.S.C. Sec. 27 Telephone Consumer Protection Act - This case challenges Defendants' practices of sending unsolicited facsimiles

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<b>Habeas Corpus:</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b>	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 530 General	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<b>Other:</b>	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<b>FEDERAL TAX SUITS</b>
<input checked="" type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE/PENALTY</b>	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<b>REAL PROPERTY</b>	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<b>LABOR</b>	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 740 Railway Labor Act	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 751 Family and Medical Leave Act	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

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CIVIL COVER SHEET

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**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII. VENUE:** Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

<b>Question A: Was this case removed from state court?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

<b>Question B: Is the United States, or one of its agencies or employees, a party to this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF?	A DEFENDANT?	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**C.1. Is either of the following true? If so, check the one that applies:**

☒ 2 or more answers in Column C

☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the  
SOUTHERN DIVISION.  
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

**C.2. Is either of the following true? If so, check the one that applies:**

☐ 2 or more answers in Column D

☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the  
EASTERN DIVISION.  
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the  
WESTERN DIVISION.  
Enter "Western" in response to Question D below.

<b>Question D: Initial Division?</b>	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Southern

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**IX(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**IX(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**X. SIGNATURE OF ATTORNEY**

**(OR SELF-REPRESENTED LITIGANT):**

*Handwritten signature: Hui / Gao / Lin*

DATE: December 30, 2013

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935ff(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))